



City of Loma Linda Official Report

Floyd Petersen, Mayor
Karen Hansberger, Mayor pro tempore
Robert Christman, Councilmember
Stan Brauer, Councilmember
Robert Ziprick, Councilmember

COUNCIL AGENDA: January 13, 2004
TO: City Council
VIA: Dennis R. Halloway, City Manager
FROM: T. Jarb Thaipejr, Public Works Director/City Engineer *T. J. T.*
SUBJECT: Council Bill #R-2004-01 – Ordering Annexation No. 62 to the
Landscape Maintenance District

RECOMMENDATION

It is recommended that the City Council adopt Council Bill #R-2004-01, ordering Annexation No. 62 to the Landscape Maintenance District, approving the assessments for Fiscal Year 2003-04 and ordering the assessments and collection of assessments for Fiscal year 2003-04.

BACKGROUND

The City Council approved Tentative Tract Map 16259 (Granite Homes), subject to Conditions of Approval. Annexation to the Landscape Maintenance District is one of the Conditions of Approval.

ANALYSIS

A petition requesting the waiver of the forty-five day notice period and Assessment Ballot, which includes the annual assessment on the subject property including a cost of living adjustment have been submitted by the property owner.

ENVIRONMENTAL

Not applicable.

FINANCIAL IMPACT

Cost associated with this annexation will be covered by the assessment.

I:\Public Works Admin\Staff Reports\Annexation 62 T16259 01.13.04.doc

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOMA LINDA ORDERING THE LEVY AND COLLECTION OF ASSESSMENTS FOR FISCAL YEAR 2004/2005 WITHIN LANDSCAPE MAINTENANCE DISTRICT NO. 1, ANNEXATION NO 62, AND CONFIRMING THE ENGINEER'S REPORT PURSUANT TO THE LANDSCAPE AND LIGHTING ACT OF 1972.

WHEREAS, the City Council of the City of Loma Linda did on the 16th day of December 2003 adopt its Resolution of Intention No. 2310 which initiated proceedings for the annexation of territory into Landscape Maintenance District No. 1 (the "District") as Annexation No. 62 (the "Annexation") and ordered the preparation of an Engineer's Report (the "Engineer's Report") for fiscal year 2004/2005, which Resolution of Intention No. 2310 was duly and legally published in the time form and manner as required by law, shown by the Affidavit of Publication of said resolution of Intention on file in the office of the City Clerk; and

WHEREAS, a notice of public hearing was mailed to each property owner within the District as required under the Landscaping and Lighting Act of 1972 and Article XIII D of the California Constitution; and

WHEREAS, said City Council has by its Resolution No. 2310 declared its intention to annex territory into Loma Linda Landscape Maintenance District No. 1 to be known as Annexation No. 62 which has been conditioned as part of their development's approval to enter into the Landscape Maintenance District; and

WHEREAS the Owner of the territory to be included in Annexation No. 62 has submitted an Assessment Ballot in favor of the proposed assessment; and

WHEREAS, said City Council having duly received considered evidence, oral and documentary, concerning the jurisdiction facts in the proceeding and concerning the necessity for the contemplated work and the benefits to be derived therefrom, and said City Council having now acquired jurisdiction to order the proposed work;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Loma Linda as follows:

1. That the public interest and convenience requires the ordering of the levy and collection of assessment for fiscal year 2004/2005 and said City Council hereby orders that the work and assessment, as set forth and described in said Resolution of Intention No. 2310 be done and made; and
2. That the report filed by the Engineer is hereby ordered finally approved; and
3. That this City Council orders the annexation of the property referred to as Annexation No. 62 into the District; and

Resolution No.

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4. That the assessments for fiscal year 2004/2005 and method of assessment in the Engineer's Report are hereby approved.

PASSED, APPROVED AND ADOPTED this 13th.day of January 2004 by the following vote:

Ayes:

Noes:

Abstain:

Absent:

Floyd Petersen, Mayor

ATTEST:

Pamela Byrnes-O'Camb, City Clerk

PETITION

A PETITION TO THE CITY COUNCIL OF THE CITY OF LOMA LINDA, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, PETITIONING SAID COUNCIL TO INITIATE PROCEEDINGS FOR THE ANNEXATION OF TERRITORY INTO CITY OF LOMA LINDA LANDSCAPE MAINTENANCE DISTRICT NO. 1, AN ASSESSMENT DISTRICT ESTABLISHED PURSUANT TO THE "LANDSCAPING AND LIGHTING ACT OF 1972" AS SET FORTH IN PART 2 OF DIVISION 15 (SECTIONS 22500 et seq.) OF THE STREETS AND HIGHWAYS CODE OF THE STATE OF CALIFORNIA.

WITNESSETH

A. WHEREAS, the petitioner, LOMA 2002, L.P. a California Limited Partnership, (hereinafter referred to as the "Owner"), is the sole owner of that certain real property (hereinafter referred to as the "Property") located in the City of Loma Linda, County of San Bernardino, State of California, (hereinafter referred to as the "City") more particularly described as follows:

Legal Description:

Assessor's Parcel Number 0284-012-19
Oakwood Drive south of Barton Road
Tract No. 16259

B. WHEREAS, as the owner is developing the Property as a residential development in the City, (hereinafter referred to as the "Project"); and

C. WHEREAS, in order to provide buildings on the Property, grading will be necessary to comply with the Building Code of the City; and

D. WHEREAS, as a condition of the Project's approval, the City has required that those certain landscape easement areas within the Project which are more particularly shown and described on Exhibit "A" attached hereto (hereinafter referred to as the "Improvement Areas"), be improved with landscaping and other related improvements (hereinafter referred to as the "Landscape Improvements") to a standard acceptable to the City, and the Owner provide a means satisfactory to the City for assuring the continued maintenance, operation and servicing of the Improvement Areas and the Landscape Improvements; and

E. WHEREAS, the Improvement Areas and Landscape Improvements must be kept free of debris and periodically cleaned so as not to compromise the safety of the Improvement Areas and Landscape Improvements; and

F. WHEREAS, pursuant to the "Landscaping and Lighting Act of 1972" as set forth in Part 2 of Division 15 (Sections 22500 et seq.) of the Streets and Highways Code of the State of California, the City may annex territory into an existing assessment district to provide for the continued maintenance, operation and servicing of the Improvements, and for the payment of the costs and expenses incurred for such maintenance, operation and servicing; and

G. WHEREAS, the Owner is the current owner of all the real property to be benefited by the Landscape Improvements and the maintenance, operation and servicing thereof.

H. WHEREAS, the Right to Vote on taxes Act, (hereinafter referred to as the "Act") which added Articles XIII C and XIII D to the California Constitution requires among other things that all new assessments must comply with the Act; and

I. WHEREAS, the Act also requires that the City Council conduct a public hearing not less than 45 days after mailing a notice of the proposed assessment to record owners of each parcel which will have a special benefit conferred upon them and upon which an assessment will be imposed; and

J. WHEREAS, the California Civil Code, Section 3513, allows anyone to waive the advantage of a law intended solely for their benefit; and

K. WHEREAS, the 45 day period before the conduct of the public hearing is not established for a public reason but is solely for the advantage of the parcels having a special benefit conferred upon them and upon which an assessment will be imposed; and

L. WHEREAS, all of the benefit is a special benefit to the property and the parcels to be created; and

M. WHEREAS, the proposed assessments upon the property and the parcels to be created will be for the special benefit to be received by the property from the improvements; and

N. WHEREAS, the Owner is the sole owner of the real property to be benefited by the Landscape Improvements, and the maintenance, operation, and servicing thereof; and

O. WHEREAS, the Act does not prohibit a waiver of the 45 day noticing period.

NOW, THEREFORE, in furtherance of the foregoing recitals, the Owner does hereby petition the City as follows:

1. In order to assure the continued maintenance, operation and servicing of the Landscape Improvements, and the payments of the costs and expenses incurred for such maintenance, operation and servicing, the Owner hereby requests that the City annex the Property into City of Loma Linda Landscape Maintenance District No. 1 (hereinafter referred to as the "District") pursuant to the "Landscaping and Lighting Act of 1972," being Part 2 of Division 15 (Sections 22500 et seq.) of the Streets and Highways Code of the State of California, in accordance with this petition.

2. The Owner requests that the territory to be annexed to the District consist of all of the Property referred in Paragraph A of the recitals herein above and shall become Annexation No. 62 in the District. The total annual assessment shall be divided among the parcels of the Property in accordance with benefit received. Such assessment may be increased annually by an amount corresponding to the increase in the Consumer Price Index (CPI), all Urban Consumers for the San Bernardino County area. If the assessment is not increased by a CPI in some years, the amount may be increased in subsequent years by an amount corresponding to the cumulative increases in the CPI.

3. As the owner of all real property to be annexed into the District, and which, receives a special benefit and is the only property proposed to be assessed for the special benefit the Owner hereby waives all statutory notices of hearings and rights of majority protest by interested property owners in the proposed Annexation per Section 22608 of

the Streets and Highways Code.

4. In consideration of the approval of the Annexation into the District by the City the Owner hereby proposes as follows:

- A. To construct Landscape Improvements (including, but not limited to, all appurtenances as may be reasonably required by the City);
- B. To bear all costs to complete the construction or other installation of the Landscape Improvements on those portions of the Improvement Areas located on the Property to the reasonable satisfaction of the City;
- C. To grant to the City of Loma Linda the right to maintain and service the Landscape Improvements;
- D. To consent to, and cast a ballot authorizing the levy of assessment against the Property in an amount reasonably determined by the City to cover all costs and expenses incurred for the continued maintenance, operation, and servicing of the Landscape Improvements;
- E. To consent to the annexation into the District;
- F. To pay the assessments levied against the Property for the first fiscal year in which they are levied prior to the submittal to the City Council of any associated final subdivision map;

ALL SIGNATURES TO BE NOTARIZED:

OWNER LOMA 2002, LP, A CALIFORNIA LIMITED PARTNERSHIP
BY: LOMA LINDA 2002, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, ITS GENERAL
BY: GRANTE HOMES, INC., A CALIFORNIA CORPORATION, ITS SOLE MEMBER PARTNER
BY: [Signature] 12.22.03
Signature Date

Dan Kessel, Co-President
Print Name

I hereby declare, under penalty of perjury, that I am the record owner, or the authorized representative of the record owner, of the parcel identified above.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of

Orange

} ss.

On

12/22/03

Date

before me,

CHARMON, Notary Public

Name and Title of Officer (e.g., "Jane Doe, Notary Public")

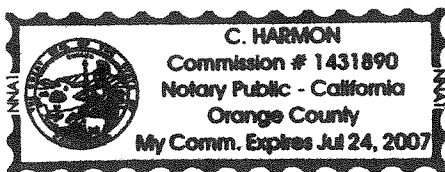
personally appeared

DANIEL KASSEL

Name(s) of Signer(s)

☒ personally known to me

☐ proved to me on the basis of satisfactory evidence



to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

CHARMON
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

Signer's Name: _____

- ☐ Individual
- ☐ Corporate Officer — Title(s): _____
- ☐ Partner — ☐ Limited ☐ General
- ☐ Attorney-in-Fact
- ☐ Trustee
- ☐ Guardian or Conservator
- ☐ Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT
OF SIGNER

Top of thumb here

ASSESSMENT BALLOT

CITY OF LOMA LINDA
LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 1
ANNEXATION NO. 62. TRACT NO. 16259

A.P.N.: 0284-012-19

OWNER OF RECORD: LOMA 2002, L.P.
A California Limited Partnership

Mail or deliver this completed ballot to the City Clerk
City of Loma Linda
25541 Barton Road, Loma Linda, CA 92354

Completed ballots must be received by the City Clerk no later than the close of the Public Hearing, which begins on January 13, 2004, 7:00 p.m., in the City Council Chambers, located at 25541 Barton Road, Loma Linda, CA 92354

PLEASE INDICATE YOUR RESPONSE BY CIRCLING EITHER
YES OR NO

Please sign and date the ballot, and return it to the City Clerk. If you wrongly mark, tear, or deface this ballot, please contact the City Clerk to obtain another.

YES: I approve of the proposed landscape maintenance assessment of \$25.00 per parcel for a total of \$1,425.00 on the lots or parcels identified on this ballot for fiscal year 2004/2005.

The assessment may be adjusted annually beginning with fiscal year 2005/2006 by the cost of living based on a factor calculated by using the County of San Bernardino Consumer Price Index (CPI).

NO: I do not approve of the proposed landscape maintenance assessment of \$25.00 per parcel for a total of \$1,425.00 on the lots or parcels identified on this ballot for fiscal year 2004/2005.

I hereby declare, under penalty of perjury that I am the record owner, or the authorized representative of the record owner, of the parcel identified above.

LOMA 2002, LP, A CALIFORNIA LIMITED PARTNERSHIP
BY: LOMA LINDA 2002 LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, ITS GENERAL PARTNER
BY: GRANITE HOMES, INC., A CALIFORNIA CORPORATION, ITS SOLE MEMBER
BY: Don Kassel DAN KASSEL, CO-PRESIDENT 12.22.03

Signature of record owner or
authorized representative

Print Name

Date

ABOUT YOUR ASSESSMENT BALLOT

Duration of the Assessments: Annually for on-going maintenance, service, and operation of the improvements. (Assessments cannot be increased beyond the approved inflation adjustment formula without additional property owner approval.)

Basis of Calculation: Assessments for each parcel are determined based on the current maintenance cost rate per square foot of landscaping to be maintained multiplied by the total square feet of landscaping to be maintained by the City divided equally by the number of proposed residential units or parcels within the Annexation. The method used to calculate the assessment for each parcel is set forth in the Engineer's Report on file in the office of the City Clerk and is summarized below:

First, the total cost for all special benefits within the Annexation is determined. This amount is the "Total Assessment Amount" for the improvements. Second, the total number of proposed residential units or parcels receiving special benefit is determined. The levy per residential units or parcel is then calculated by dividing the Total Assessment Amount by the total number of residential units or parcels.

Total Assessment Amount / Total residential units or Parcels = Levy per residential unit or Parcel

The levy per residential unit or parcel rate for Annexation No. 62 is \$25.00 per residential unit or parcel per year. The total assessment for Annexation No. 62 is \$1,425.00

Protest Provisions: Pursuant to California Constitution Article XIII D, Section 4 (c), at the Public Hearing, the City Council shall consider all protests against the proposed new assessments and tabulate the property owner ballots. In addition to the property owner balloting, formal written protests regarding the District or assessments may be filed with the office of the City Clerk. Please ensure that your Assessor's Parcel Numbers (APNs) are included on your protest so that your properties can be identified correctly.

THIS BALLOT is your opportunity to indicate whether or not you approve of the proposed new annual assessments that will cover the annual costs of providing maintenance and operations services for the proposed landscaping improvements within your development.

If the assessment is approved, your property will be assessed based on its current land use and the actual cost to maintain the improvements. The amount listed on the accompanying Assessment Ballot may not increase more than the rate of inflation without additional property owner approval (the rate of inflation is measured by the change in the Consumer Price Index for the San Bernardino County Area for All Urban Consumers, as developed by U.S. Bureau of Labor Statistics); or if the development or current land use of your property changes. Details regarding the amounts of costs and assessments are set forth in the Engineer's Report, and will be on file for review at the office of the City Clerk after the Public Hearing date set by the City.

At the close of the Public Hearing on January 13, 2004, the City shall count all ballots received, weighted according to the proportional financial obligation of each property. If the ballots submitted in opposition to the proposed assessment (for all properties balloted) do not exceed the ballots submitted in favor of the proposed assessment, then the assessments for your property may be imposed. If the ballots submitted in opposition to the assessment do exceed the ballots submitted in favor of the assessment, then the City will not accept the new Annexation and will not levy an assessment for landscaping.

To Cast Your Vote

Ballots may be mailed or personally delivered to the office of the City Clerk in accordance with the instructions set forth in the Assessment Ballots (additional ballots are available upon request to the office of the City Clerk) at the following address:

Completed ballots MUST be received by the City of Loma Linda, City Clerk, no later than the closing of the Public Hearing on January 13, 2004, at 25541 Barton Road, Loma Linda, CA 92354.

How to cast your ballot.

1.  Check
Yes or No

2.  Sign it

3.  Return to City Clerk on or
before January 13, 2004.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of

Orange

SS.

On

12/22/03

Date

before me,

CHARMON, Notary Public

Name and Title of Officer (e.g., "Jane Doe, Notary Public")

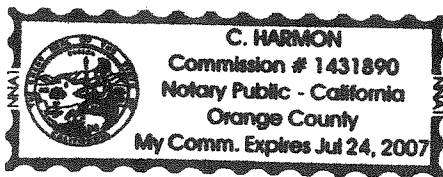
personally appeared

DANIEL KASSEL

Name(s) of Signer(s)

☒ personally known to me

☐ proved to me on the basis of satisfactory evidence



to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Charmon

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

Signer's Name: _____

- ☐ Individual
- ☐ Corporate Officer — Title(s): _____
- ☐ Partner — ☐ Limited ☐ General
- ☐ Attorney-in-Fact
- ☐ Trustee
- ☐ Guardian or Conservator
- ☐ Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT
OF SIGNER

Top of thumb here